

REMARKS

Reconsideration of this application, as amended, is respectfully requested.

Claims 1-20 are pending in the application, with Claims 1, 7, 15, 17 and 19 being the independent claims.

The Examiner rejected Claims 1-3, 5-14, 19 and 20 under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2002/0141349 to *Kim et al.* (hereinafter, *Kim*) in view of U.S. Publication No. 2004/0147276 to *Gholmieh et al.* (hereinafter, *Gholmieh*). Applicants acknowledge the indication of allowable subject matter in Claim 4. Applicants also acknowledge that Claims 15-18 are allowed.

Regarding Claim 1, the Examiner contends that *Kim* teaches each element of the claim with the exception of the generation of a global RCB. The Examiner cites *Gholmieh* in an attempt to remedy this deficiency.

Claim 1 has been amended to recite the elements of Claims 5 and 6, and Claims 5 and 6 have been cancelled without prejudice. More specifically, Claim 1 has been amended to recite that a global RCB is generated according to a total capacity of the BS, and that the dedicated RCBs are generated according to the data rates and an interference level of the MSs. The combination of *Kim* and *Gholmieh* fails to disclose the existence of two types of RCBs in the same system, each generated according to different variables. More specifically, the combination of *Kim* and *Gholmieh* fails to disclose the use of both a global RCB and dedicated RCBs in a communication system, as recited in Claim 1. Accordingly, the combination of *Kim* and *Gholmieh* fails to teach, suggest or render obvious each and every element of Claim 1, and Claim 1 is patentable over the combination of *Kim* and *Gholmieh*.

Regarding Claim 7, Applicants assert that in rejecting Claims 1 and 7 together, the Examiner has failed to address those elements of Claim 7 that differ from Claim 1. For example, Claim 7 recites that a controller generates a global RCB according to a total capacity of the BS, whereas Claim 1 does not. The Examiner has failed to accord patentable weight to the limitations of Claim 7, which were not recited in Claim 1. All words in a claim must be considered in judging the patentability of that claim against the prior art. See MPEP §2143.03. One cannot divine claim meaning in a vacuum. *Philips v. AWH Corporation* (Fed. Cir. July 12, 2005). Accordingly, Applicants respectfully request that the Examiner issue a new non-final action addressing each claim individually.

The combination of Kim and Gholmieh fails to disclose a controller that generates two different types of RCBs based on different variables. Thus, Applicants assert that the combination of *Kim* and *Gholmieh* fails to teach, suggest or render obvious each and every element of Claim 7, and Claim 7 is patentable over the combination of *Kim* and *Gholmieh*.

Regarding Claim 19, the combination of *Kim* and *Gholmieh* fails to disclose a mobile station that receives a global RCB and a dedicated RCB from a base station, as described above with respect to Claim 1. Further, the combination fails to disclose that an increase or decrease in maximum reverse data rate may occur based on either of the global RCB or the dedicated RCB received by the MS. Accordingly, the combination of *Kim* and *Gholmieh* fails to teach, suggest or render obvious each and every element of Claim 19, and Claim 19 is patentable over the combination of *Kim* and *Gholmieh*.

Regarding Claims 2-4, 8-14 and 20, while not conceding the patentability of the dependent claims, *per se*, Claims 2-4, 8-14 and 20 are also allowable for at least the above reasons. Accordingly, Applicants assert that Claims 1-4, 8-14, 19 and 20 are allowable over the combination of *Kim* and *Gholmieh* and the rejection under 35 U.S.C. §103(a) should be withdrawn.

Accordingly, all of the claims pending in the Application, namely, Claims 1-4 and 7-20 are in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", written in a cursive style.

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